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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/584,988

03/01/2007

Alexis Debut

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22852

7590

04/18/2008

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER  
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EXAMINER

PENG, CHARLIE YU

ART UNIT

PAPER NUMBER

2883

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/584,988	<b>Applicant(s)</b> DEBUT ET AL.	
	<b>Examiner</b> CHARLIE PENG	<b>Art Unit</b> 2883	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 24-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-27, 29, 30, 32-36, 38, 39 and 41-48 is/are rejected.
- 7) ☒ Claim(s) 28, 31, 37 and 40 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/31/2007</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments, filed 29 January 2008, with respect to the rejections of claims 24-27, 29, 30, 32-36, 38, 39 and 41-48 under 35 USC 102(b) have been fully considered and are persuasive. Applicant's main argument is that claims as amended require two fibers each spun unidirectionally to be joined together while the Evans reference spins one fiber alternately in opposite directions. Therefore, the rejection has been withdrawn. However, upon further consideration, new grounds of rejections are made as necessitated by the amendments to claims 24-27, 29, 30, 32-36, 38, 39 and 41-48.

Please see office action below for details.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 46 and 47 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 6,628,869 to Bohnert et al. Bohnert teaches a method for producing a fiberoptic waveguide comprising: joining two fibers 1, 2 to one another at a joint 3; wherein the fibers 1, 2 are twisted in opposite directions by a predefined angle by rotary holders 5, 6.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24-27, 29, 30, 32-36, 38, 39 and 41-45 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,704,960 to Evans et al. Evans illustrates, in Fig. 6, a segment of a length of optical fiber having alternating lengths of spin or twist, which have been formed by applying torque alternately in the clockwise and then in the counterclockwise direction or visa versa. With reference to the method used to obtain each of the optical fibers, even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. That is, the process has no bearing on the patentability of the product claim and is not given patentable weight or treated on merits. *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985) Evans does not teach the fiber link is in fact made of from two distinct fibers. However, applicant has not presented any arguments or remarks that the two separate fibers are functionally different, particularly since the two separate fibers are "joined one to the other", the claimed invention has not been shown to be structurally different than prior art. Further, applicant has not presented any arguments or remarks that creating an optical link with two separate fibers holds

any advantage(s) over pre-existing art, and it has been long held that “a combination which only unites old elements with no change in their respective functions” is obvious to skillful artisans. *Great Atlantic & Pacific Tea Co. v. Supermarket Equipment Corp.*, 340 US 147, 152 (1950).

3. With specific reference to claims 27 and 36, each segment has a length of L as shown in Fig. 6.

4. With specific reference to claims 29, 30, 32, 38, 39 and 41, Evans teaches application of the optical fiber as illustrated in FIG. 11 that a weak optical input signal 32 enters from the left passing through a wavelength division multiplexing coupler 34 which combines it with light from an external pump source 38 and the pump and the signal light then enters one end of an erbium doped fiber 36, typically 20 to 30 meters long. In general, several twists per meter, as dictated by the birefringence of the fiber, are impressed upon the fiber with an alternative torque being applied at intervals of about 1/2 meter or less and about 1 to 4 twists per meter are typically satisfactory. (Col. 5 line 46 – col. 6 line 2)

5. Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bohnert et al. Bohnert teaches a method for producing an optical fiber trunk as claimed by not joining a plurality of optical fiber trunks for realizing an optical cable line. However, anyone with ordinary skill in the art knows most optical fiber cable lines are made with multiple fiber lines inside to increase its capacity, and it would have been obvious to join several fibers in a common sheath to create a fiber cable line.

***Allowable Subject Matter***

Claims 28 and 37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Evans teaches the spun fiber except for a relationship between the span length and a beat length and a correlation length. Though correlation and beat lengths are known quantities in fibers with reduced PMD, no relevant prior art teaches or suggest such a relationship as dictated by the equation as claimed. It is the examiner's opinion that the prior art of record, taken alone or in combination, fails to disclose or render obvious the relationship, in combination with the rest of the limitations of the base claim.

Claims 31 and 40 are also objected to but allowable as a dependent claim of claims 28 and 37.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHARLIE PENG whose telephone number is (571)272-2177. The examiner can normally be reached on 9 am - 6 pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on (571) 272-2415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/CHARLIE PENG/  
Patent Examiner, Art Unit 2883

04/07/2008